

Country Reports on Human Rights Practices - [2005](#)
Released by the Bureau of Democracy, Human Rights, and Labor
March 8, 2006

All men and women desire and deserve to live in dignity and liberty. As President Bush said: "The advance of freedom is the great story of our time." Promoting human rights and democracy is a worldwide phenomenon and there is a growing global discussion of democracy and the universal values protected by democratic governance.

The increasing demand for democratic governance reflects recognition that the best guarantor of human rights is a thriving democracy with representative, accountable institutions of government, equal rights under the rule of law, a robust civil society, political pluralism, and independent media.

The United States and other free nations have a duty to defend human rights and help spread democracy's blessings. We must help countries develop the democratic institutions that will ensure human rights are respected over the long term. We must help fragile democracies deliver a better life for their citizens. We must call countries to account when they retreat from their international human rights commitments. And we must always stand in solidarity with the courageous men and women across the globe who live in fear yet dream of freedom.

By defending and advancing human rights and democratic principles, we keep faith with our country's most cherished values and lay the foundation for lasting peace. Fulfilling the promise of the United Nations Universal Declaration of Human Rights and building vibrant democracies worldwide will take generations, but it is work of the utmost urgency that cannot be delayed.

With these thoughts in mind, I am pleased to transmit the Department of State's *Country Reports on Human Rights Practices for 2005* to the United States Congress.

Condoleezza Rice
Secretary of State

Introduction

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These reports describe the performance of 196 countries in putting into practice their international commitments on human rights. These basic rights, reflected in the UN Universal Declaration of Human Rights, have been embraced by people of every culture and color, every background and belief, and constitute what President Bush calls the "non-negotiable demands of human dignity."

The Department of State published the first annual country reports on human rights practices in 1977 in accordance with congressional mandate, and they have become an essential element of the United States' effort to promote respect for human rights worldwide. For nearly three decades, the reports have served as a reference document and a foundation for cooperative action among governments, organizations, and individuals seeking to end abuses and strengthen the capacity of countries to protect the fundamental rights of all.

The worldwide championing of human rights is not an attempt to impose alien values on citizens of other countries or to interfere in their internal affairs. The Universal Declaration calls upon "every individual and every organ of society ... to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance..."

President Bush has committed the United States to working with other democracies and men and women of goodwill across the globe to reach an historic long-term goal: "the end of tyranny in our world."

To be sure, violations of human rights and miscarriages of justice can and do occur in democratic countries. No governmental system is without flaws. Human rights conditions in democracies across the globe vary widely, and these country reports reflect that fact. In particular, democratic systems with shallow roots and scarce resources can fall far short of meeting their solemn commitments to citizens, including human rights commitments. Democratic transitions can be tumultuous and wrenching. Rampant corruption can retard democratic development, distort judicial processes, and destroy public trust. Nonetheless, taken overall, countries with democratic systems provide far greater protections against violations of human rights than do nondemocratic states.

The United States' own journey toward liberty and justice for all has been long and difficult, and it is still far from complete. Yet over time our independent branches of government, our free media, our openness to the world, and, most importantly, the civic courage of impatient American patriots help us keep faith with our founding ideals and our international human rights obligations.

These country reports offer a factual basis by which to assess the progress made on human rights and the challenges that remain. The reports review each country's performance in 2005, not one country's performance against that of another. While each country report speaks for itself, cross-cutting observations can be made. Six broad observations, supported by country-specific examples, are highlighted below. The examples are illustrative, not exhaustive.

First, countries in which power is concentrated in the hands of unaccountable rulers tend to be the world's most systematic human rights violators. These states range from closed, totalitarian systems that subject their citizens to a wholesale deprivation of their basic rights to authoritarian systems in which the exercise of basic rights is severely restricted.

In 2005 the Democratic People's Republic of Korea (DPRK or North Korea) remained one of the world's most isolated countries. The systematically repressive regime continued to control almost all aspects of citizens' lives, denying freedoms of speech, religion, the press, assembly, association, and movement, as well as workers' rights. In December 2005, the regime further receded into isolation by calling for significant drawdowns of the international nongovernmental organization (NGO) presence in the country.

In Burma where a junta rules by diktat, promises of democratic reform and respect for human rights continued to serve as a façade for brutality and repression. Forced labor, trafficking in persons, use of child soldiers, and religious discrimination remained serious concerns. The military's continuing abuses included systematic use of rape, torture, execution, and forced relocation of citizens belonging to ethnic minorities. The regime maintained iron-fisted control through the surveillance, harassment, and imprisonment of political activists, including Nobel Laureate and opposition leader Aung San Suu Kyi, who remained under house arrest without charge.

In 2005 the Iranian government's already poor record on human rights and democracy worsened. In the June presidential elections, slightly more than a thousand registered candidates – including all the female candidates – were arbitrarily thrown out of contention by the country's guardian council. The newly elected hard-line president denied the Holocaust occurred and called for the elimination of Israel. The ruling clerics and the president oversaw deterioration in prison conditions for the hundreds of political prisoners, further restrictions on press freedom, and a continuing rollback of social and political freedoms. Serious abuses such as summary executions, severe violations of religious freedom, discrimination based on ethnicity and religion, disappearances, extremist vigilantism, and use of torture and other degrading treatment continued.

In Zimbabwe the government maintained a steady assault on human dignity and basic freedoms, tightening its hold on civil society and human rights NGOs and manipulating the March parliamentary elections. Opposition members were subjected to abuse, including torture and rape. New constitutional amendments allowed the government to restrict exit from the country, transferred title to the government of all land reassigned in the land acquisition program, and removed the right to challenge land acquisitions in court. The government's Operation Restore Order, initiated to demolish allegedly illegal housing and businesses,

displaced or destroyed the livelihoods of more than 700 thousand persons and further strained the country's weak and depressed economy.

In Cuba the regime continued to control all aspects of life through the communist party and state-controlled mass organizations. The regime suppressed calls for democratic reform, such as the Varela Project, which proposed a national referendum. Authorities arrested, detained, fined, and threatened Varela activists and the government held at least 333 political prisoners and detainees.

China's human rights record remained poor, and the government continued to commit serious abuses. Those who publicly advocated against Chinese government policies or views or protested against government authority faced harassment, detention, and imprisonment by government and security authorities. Disturbances of public order and protests calling for redress of grievances increased significantly, and several incidents were violently suppressed. Key measures to increase the authority of the judiciary and reduce the arbitrary power of police and security forces stalled. Restrictions of the media and the Internet continued. Repression of minority groups continued unabated, particularly of Uighurs and Tibetans. New religious affairs regulations were adopted expanding legal protection for some activities of registered religious groups, but repression of unregistered religious groups continued, as did repression of the Falun Gong spiritual movement.

In Belarus President Lukashenko continued to arrogate all power to himself and his dictatorial regime. Pro-democracy activists, including opposition politicians, independent trade union leaders, students, and newspaper editors, were detained, fined, and imprisoned for criticizing Lukashenko and his regime. His government increasingly used tax inspections and new registration requirements to complicate or deny NGOs, independent media, political parties, and minority and religious organizations the ability to operate legally.

Second, human rights and democracy are closely linked, and both are essential to long-term stability and security. Free and democratic nations that respect the rights of their citizens help to lay the foundation for lasting peace. In contrast, states that severely and systematically violate the human rights of their own people are likely to pose threats to neighboring countries and the international community.

Burma is a case in point. Only by Burma's return to the democratic path from which it was wrenched can the basic rights of the Burmese people be realized. The junta refuses to recognize the results of the historic free and fair legislative elections in 1990. The regime's cruel and destructive misrule has inflicted tremendous suffering on the Burmese people and caused or exacerbated a host of ills for its neighbors, from refugee outflows to the spread of infectious diseases and the trafficking of drugs and human beings. On December 16, the UN Security Council held a landmark discussion on the situation in Burma.

The Democratic People's Republic of Korea is another example. When the Korean peninsula was divided, the DPRK and the Republic of Korea (ROK or South Korea) were at roughly the same economic point, and both were subject to authoritarian rule. Political and economic freedom has made the difference between the two Koreas. Today, North Koreans are deprived of the most basic freedoms, while the regime's authoritarian rule produced tens of thousands of refugees. The government earned hard currency through illicit activities, including narcotics trafficking, counterfeiting of currency and goods such as cigarettes, and smuggling. Pyongyang has not heeded the international community's repeated calls to dismantle its nuclear programs.

The Iranian government continued to ignore the desire of the Iranian people for responsible, accountable government, continuing its dangerous policies of pursuing a nuclear weapons capability, providing support to terrorist organizations, and advocating – including in several public speeches by the new president – the destruction of a UN member state. Iran's deprivation of basic rights to its own people, its interference in Iraq, its support for Hizballah, Hamas, and other terrorist organizations, and its refusal to engage constructively on these issues, have further isolated it from the world community.

Similarly, the government of Syria refused international calls to respect the fundamental freedoms of its people and end its interference in the affairs of its neighbors. Syria continued to provide support for Hizballah, Hamas, and other Palestinian rejectionist groups and did not cooperate fully with the UN International Independent Investigative Commission on the assassination in Beirut of former Lebanese Prime Minister al-Hariri. The Chief Investigator's reports concluded that evidence pointed to involvement by

Syrian authorities and made it clear that Syrian officials, while purporting to cooperate, deliberately misled the investigators.

By contrast, in the Balkans, a marked overall improvement in human rights, democracy, and the rule of law over the past several years has led to greater stability and security in the region. Increasingly democratic governments are in place, more war criminals are facing justice, significant numbers of displaced persons have returned home, elections are progressively more compliant with international standards, and neighbors are deepening their cooperation to resolve post-conflict and regional problems. Many countries of the former Yugoslavia have made progress in bringing persons accused of war crimes to trial in domestic courts, which is important to national reconciliation and regional stability. At the end of 2005, however, two of the most wanted war crimes suspects, Radovan Karadzic and Ratko Mladic, remained at large.

Third, some of the most serious violations of human rights are committed by governments within the context of internal and/or cross-border armed conflicts. The Sudanese government's 2003 attempt to quell a minor uprising of African rebels in Darfur by arming *janjaweed* militias and allowing them to ravage the region resulted in a vicious conflict. The Department of State in September of 2004 determined that genocide occurred in Darfur. It continued in 2005. By the end of 2005, at least 70 thousand civilians had perished, nearly 2 million had been displaced by the fighting, and more than 200 thousand refugees had fled into neighboring Chad. Torture was widespread and systematic in Darfur, as was violence against women, including rape used as a tool of war. There were reports of women being marched away into the desert; their fate remained unknown. The Comprehensive Peace Agreement signed by the Sudanese government and the Sudan People's Liberation Movement opened the way to adopt a constitution in July and form a government of national unity to serve until elections in 2009. The African Union deployed seven thousand troops to Darfur, where their presence helped curb some but not all of the violence. At the end of 2005, government-supported *janjaweed* attacks on civilians continued.

Nepal's poor human rights record worsened. The government continued to commit many serious abuses, both during and after the February-April state of emergency that suspended all fundamental rights except for habeas corpus. In many cases the government disregarded habeas corpus orders issued by the Supreme Court and often rearrested student and political party leaders. The Maoist insurgents also continued their campaign of torturing, killing, bombing, conscripting children, kidnapping, extorting, and forcing closures of schools and businesses.

The political crisis in Cote d'Ivoire, which continued to divide the country, led to further abuses in 2005, including rape, torture, and extrajudicial killings committed by government and rebel security forces. There were fewer reports of rebel recruitment of child soldiers, and many were released. Violence and threats of violence against the political opposition continued. Despite continued efforts by the international community and the African Union, the political process to establish a power-sharing government remained stalled. By the end of September, little work had been completed to prepare for the scheduled October 30 elections, and disarmament of the New Forces rebel group had not begun. On October 6, the African Union decided to extend President Laurent Gbagbo's term in office by up to one year.

In Chechnya and elsewhere in Russia's Northern Caucasus region, federal forces and pro-Moscow Chechen forces engaged in abuses including torture, summary executions, disappearances, and arbitrary detentions. Pro-Moscow Chechen paramilitaries at times appeared to act independently of the Russian command structure, and there was been no indication that the federal authorities made any effective effort to rein them in or hold them accountable for egregious abuses. Antigovernment forces also continued to commit terrorist bombings and serious human rights abuses in the North Caucasus. The year 2005 saw the continued spread of violence and abuses throughout the region, where there was an overall climate of lawlessness and corruption.

The Great Lakes region of central Africa, encompassing the Democratic Republic of the Congo (DRC), Rwanda, Burundi, and Uganda, has been plagued by civil war, large-scale interethnic violence, and severe conflict-related human rights abuses for well over a decade. However, there was less violence overall in 2005, and the human rights situation improved markedly, encouraging tens of thousands of displaced persons, particularly Burundians, to return home. Burundi concluded its four-year transitional process, and there were historical electoral advances in the DRC. Governments in the Great Lakes region made significant progress in demobilizing thousands of child soldiers in their military forces and those belonging to various rebel groups. At the same time, various armed groups based in eastern Congo continued to destabilize the region and compete with one another for strategic and natural resources, despite UN-

supported Congolese military operations to disband armed groups in the DRC. Thousands of rebels from Rwanda, Uganda, and Burundi, including Rwandan rebels who led the 1994 Rwandan genocide, continued to oppose the government of their respective countries, attack civilians in the DRC, and commit numerous serious abuses, particularly against women and children. The governments of Rwanda and Uganda reportedly continued illegally to channel arms to armed groups operating and committing abuses in the eastern DRC.

In Colombia, human rights violations related to the 41-year internal armed conflict continued. However, the government's concentrated military offensive against illegal armed groups and ongoing demobilization of paramilitary groups led to reductions in killings and kidnappings. Colombia also began a four-year process to implement a new adversarial accusatory-style criminal procedures code. However, impunity remained a major obstacle, particularly for officials accused of committing past human rights abuses, as well as for certain members of the military who collaborated with paramilitary groups.

Fourth, where civil society and independent media are under siege, fundamental freedoms of expression, association, and assembly are undermined. A robust civil society and independent media help create conditions under which human rights can flourish by raising awareness among publics about their rights, exposing abuses, pressing for reform, and holding governments accountable.

Governments should defend – not abuse – the peaceful exercise of fundamental freedoms by members of the media and civil society even if they do not agree with their views or actions. Restrictions that are imposed by law on the exercise of such freedoms can only be justified to the extent they are consistent with a country's human rights obligations and are not merely a pretext for restricting such rights.

When states wield the law as a political weapon or an instrument of repression against civil society and the media, they rule by law rather than upholding the rule of law. The rule of law acts as a check on state power, i.e., it is a system designed to protect the human rights of the individual against the power of the state. In contrast, rule by law can be an abuse of power, i.e., the manipulation of the law and the judicial system to maintain the power of the rulers over the ruled.

In 2005, a disturbing number of countries across the globe passed or selectively applied laws against the media and NGOs. For example:

The Cambodian government utilized existing criminal defamation laws to intimidate, arrest, and prosecute critics and opposition members over the course of the year.

China increased restrictions on the media and the Internet, leading to two known arrests.

The Zimbabwean government arrested persons who criticized President Mugabe, harassed and arbitrarily detained journalists, closed an independent newspaper, forcibly dispersed demonstrators, and arrested and detained opposition leaders and their supporters.

In Venezuela new laws governing libel, defamation, and broadcast media content, coupled with legal harassment and physical intimidation, resulted in limitations on media freedoms and a climate of self-censorship. There continued to be reports that government representatives and supporters intimidated and threatened members of the political opposition, several human rights NGOs, and other civil society groups. Some NGOs also charged that the government used the judiciary to place limitations on the political opposition.

In Belarus the Lukashenko government stepped up its suppression of opposition groups and imposed new restrictions on civil society. There were politically motivated arrests, several independent newspapers were closed, the operations of others were hindered, and NGOs were harassed.

In Russia raids on NGO offices, registration problems, intimidation of NGO leaders and staff and visa problems for foreign NGO workers had a negative effect, as did the parliament's adoption of a new restrictive law on NGOs. The Kremlin also acted to limit critical voices in the media. The government decreased the diversity of the broadcast media, particularly television, the main source of news for the

majority of Russians. By the end of 2005, all independent nationwide television stations had been taken over either by the state or by state-friendly organizations.

Fifth, democratic elections by themselves do not ensure that human rights will be respected, but they can put a country on the path to reform and lay the groundwork for institutionalizing human rights protections. Democratic elections are, however, milestones on a long journey of democratization. They are essential to establishing accountable governments and governmental institutions that abide by the rule of law and are responsive to the needs of citizens.

In Iraq 2005 was a year of major progress for democracy, democratic rights and freedom. There was a steady growth of NGOs and other civil society associations that promote human rights. The January 30th legislative elections marked a tremendous step forward in solidifying governmental institutions to protect human rights and freedom in a country whose history is marred by some of the worst human rights abuses in the recent past. In an October 15 referendum and December 15 election, Iraqi voters adopted a permanent constitution and elected members of the country's new legislature, the Council of Representatives, thus consolidating democratic institutions that can provide a framework for a democratic future. Although the historic elections and new institutions of democratic government provided a structure for real advances, civic life and the social fabric remained under intense strain from the widespread violence principally inflicted by insurgent and terrorist elements. Additionally, elements of sectarian militias and security forces frequently acted independently of government authority. Still, the government set and adhered to a legal and electoral course based on respect for political rights.

Although deprived of basic human rights for years, Afghans in 2005 continued to show their courage and commitment to a future of freedom and respect for human rights. September 18 marked the first parliamentary elections in nearly three decades. Women enthusiastically voted in the elections, which included 582 female candidates for office. Sixty-eight women were elected to the lower House in seats reserved for women under the 2004 Constitution. Seventeen of the 68 women would have been elected in their own right even without the set-aside seats. In the upper House, 17 of the 34 seats appointed by the president were reserved for women; the Provincial Councils elected an additional 5 women for a total of 22 women. The September 18 parliamentary elections occurred against the backdrop of a government still struggling to expand its authority over provincial centers, due to continued insecurity and violent resistance in some quarters.

In Ukraine there were notable improvements in human rights performance following the Orange Revolution, which led to the election of a new government reflecting the will of the people. In 2005 there was increased accountability by police officers, and the mass media made gains in independence. Interference with freedom of assembly largely ceased, and most limitations on freedom of association were lifted. A wide variety of domestic and international human rights groups also generally operated without government harassment.

Indonesia, the world's most populous Muslim majority country, made significant progress in strengthening the architecture of its democratic system. Through a series of historic local elections, Indonesians were able directly to elect their leaders at the city, regency, and provincial levels for the first time. There were improvements in the human rights situation, although significant problems remained, and serious violations continued. A critical development was the landmark August 15 peace agreement with the Free Aceh Movement ending decades of armed conflict. The government also inaugurated the Papuan People's Assembly and took other steps toward fulfilling the 2001 Special Autonomy Law on Papua.

Lebanon made significant progress in ending the 29-year Syrian military occupation and regaining sovereignty under a democratically elected parliament. However, continuing Syrian influence remained a problem.

Liberia emerged into the international democratic arena with its dramatic step away from a violent past and toward a free and democratic future. On November 23, Ellen Johnson Sirleaf was declared the winner of multiparty presidential elections, making her Africa's first elected female head of state and marking a milestone in the country's transition from civil war to democracy. The transitional government generally respected the human rights of its citizens and passed legislation to strengthen human rights. However, police abuse, official corruption, and other problems persisted and were exacerbated by the legacy of the 14-year civil war, including severely damaged infrastructure and widespread poverty and unemployment.

Sixth, progress on democratic reform and human rights is neither linear nor guaranteed. Some states still have weak institutions of democratic government and continue to struggle; others have yet to fully commit to the democratic process. Steps forward can be marred with irregularities. There can be serious setbacks. Democratically elected governments do not always govern democratically once in power.

In 2005, many countries that have committed themselves to democratic reform showed mixed progress; some regressed.

The Kyrgyz Republic's human rights record improved considerably following the change in leadership between March and July, although problems remained. President Akayev fled the country after opposition demonstrators took over the main government building in the capital to protest flawed elections. The July presidential election and November parliamentary election constituted improvements in some areas over previous elections. However, constitutional reform stalled and corruption remained a serious problem.

In Ecuador, congress removed democratically elected President Lucio Gutierrez in April following large scale protests and public withdrawal of support by the military and the national police leadership. Vice President Alfredo Palacio succeeded Gutierrez, and elections were scheduled for 2006.

Although the transitional government of the Democratic Republic of Congo postponed national general elections until 2006, the country held its first democratic national poll in 40 years. Voters overwhelmingly approved a new constitution in a largely free and fair national referendum, despite some irregularities.

In June, the Ugandan parliament approved a controversial amendment to eliminate presidential term limits, clearing the way for President Museveni to seek a third term. However, citizens voted in a national referendum to adopt a multiparty system of government, and the parliament amended the electoral laws to include opposition party participation in elections and in government.

The Egyptian government amended its constitution to provide for the country's first multiparty presidential election in September. Ten political parties fielded candidates, and the campaign period was marked by vigorous public debate and greater political awareness and engagement. Voter turnout was low, however, and there were credible reports of widespread fraud during balloting. Presidential runner-up Ayman Nour, his parliamentary immunity stripped away in January, was sentenced in December on forgery charges to five years' imprisonment after a six-month trial that failed to meet basic international standards. The November and December parliamentary elections witnessed significant gains by candidates affiliated with the outlawed Muslim Brotherhood. These elections were marred by excessive use of force by security forces, low turnout, and vote-rigging. The government refused to admit international observers for either the presidential or parliamentary elections. The National Council for Human Rights, established by the Egyptian parliament, issued its first annual report, frankly describing government abuses.

During the Ethiopian parliamentary elections in May, international observers noted numerous irregularities and voter intimidation. Scores of demonstrators protesting the elections were killed by security forces. Authorities detained, beat, and killed opposition members, NGO workers, ethnic minorities, and members of the press.

Azerbaijan's November parliamentary elections, while an improvement in some areas, failed to meet a number of international standards. There were numerous credible reports of local officials interfering with the campaign process and misusing state resources, limited freedom of assembly, disproportionate use of force by police to disrupt rallies, and fraud and major irregularities in vote counting and tabulation. Thus far, additional actions taken during the postelection grievance process have not fully addressed the shortcomings of the electoral process.

Kazakhstan showed improvements in the pre-election period for the December presidential election, but overall it fell short of international standards for free and fair elections. The Organization for Security and Cooperation in Europe's Office of Democratic Institutions and Human Rights noted serious limitations on political speech that prohibited certain kinds of criticism of the president, unequal access to the media for opposition and independent candidates, and violent disruptions of opposition campaign events. Legislation enacted during 2005, in particular the extremism law, national security amendments, and election law amendments, eroded legal protections for human rights and expanded the powers of the executive branch

to regulate and control civil society and the media. But the Constitutional Court deemed unconstitutional a restrictive NGO law.

Uzbekistan's human rights record, already poor, worsened considerably in 2005. A violent uprising in May in the city of Andijon led to disproportionate use of force by the authorities and a wave of repressive government actions that dominated the remainder of the year. The uprising started after a series of daily peaceful protests in support of businessmen on trial between February and May for Islamic extremism. On the night of May 12-13, unidentified individuals seized weapons from a police garrison, stormed the city prison where the defendants were being held, killed several guards, and released several hundred inmates, including the defendants. They then occupied the regional administration building and took hostages. On May 13, according to eyewitness accounts, government forces fired indiscriminately into a crowd that included unarmed civilians, resulting in hundreds of deaths. In the aftermath, the government harassed, beat, and jailed dozens of human rights activists, journalists, and others who spoke out about the events and sentenced numerous people to prison in trials that did not meet international standards. The government forced numerous domestic and international NGOs to close and severely restricted those that continued to operate.

In Russia, efforts continued to concentrate power in the Kremlin and direct democracy from the top down. To those ends, the Kremlin abolished direct elections of governors in favor of presidential nomination and legislative approval. In the current Russian context, where checks and balances are weak at best, this system limits government accountability to voters while further concentrating power in the executive branch. Amendments to the electoral and political party law amendments, billed as intended to strengthen nationwide political parties in the longer term, could in fact reduce the ability of opposition parties to compete in elections. This trend, taken together with continuing media restrictions, a compliant parliament, corruption and selectivity in enforcement of the law, political pressure on the judiciary, and harassment of some NGOs, resulted in an erosion of the accountability of government leaders to the people.

Pakistan's human rights record continued to be poor, despite President Musharraf's stated commitment to democratic transition and "enlightened moderation." Restrictions remained on freedom of movement, expression, association, and religion. Progress on democratization was limited. During elections for local governments in 2005, international and domestic observers found serious flaws, including interference by political parties, which affected the outcome of the vote in parts of the country. Police detained approximately 10 thousand Pakistan People's Party activists in April prior to the arrival for a rally of Benazir Bhutto's husband, Asif Ali Zardari. The security forces committed extrajudicial killings, violations of due process, arbitrary arrest, and torture. Corruption was pervasive throughout the government and police forces, and the government made little attempt to combat the problem. Security force officials who committed human rights abuses generally enjoyed de facto legal impunity.

Despite hard realities and high obstacles, there is an increasing worldwide demand for greater personal and political freedom and for the spread of democratic principles. For example, in the Broader Middle East and North Africa (BMENA) region, recent years have witnessed the beginnings of political pluralism, unprecedented elections, new protections for women and minorities, and indigenous calls for peaceful, democratic change.

At the November 2005 Forum for the Future held in Manama, Bahrain, 40 leaders representing civil society organizations from 16 BMENA countries participated alongside their foreign ministers. The civil society leaders outlined a set of priorities with a particular focus on rule of law, transparency, human rights, and women's empowerment. Among those serving on this civil society delegation were representatives from the Democracy Assistance Dialogue (DAD), who presented the outcomes of discussions and debates held over the course of the year between civil society leaders and their government counterparts on the critical topics of election reform and the development of legitimate political parties. The growing DAD network includes hundreds of civil society leaders from the BMENA region. To better support growing reform efforts in the region, a Foundation for the Future to provide support directly to civil society and a Fund for the Future to support investment in the region, were also launched at the Forum. The level and depth of civil society participation at the Forum for the Future was historic and positive and set an important precedent for genuine dialogue and partnership between civil society and governments on issues of political reform.

The Forum for the Future is just one of the many mechanisms through which the United States, other Group of 8 countries, and regional governments support the indigenous desire for reform in the broader Middle East and North Africa.

The growing worldwide demand for human rights and democracy reflected in these reports is not the result of the impersonal workings of some dialectic or of the orchestrations of foreign governments. Rather, this call derives from the powerful human desire to live in dignity and liberty and from the personal bravery and tenacity of men and women in every age and in every society who serve and sacrifice for the cause of freedom.

Poland

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Poland, with a population of 39 million, is a multiparty democracy with a bicameral parliament. Executive power is shared by the prime minister, the council of ministers, and, to a lesser extent, the president. On September 25, free and fair parliamentary elections were held. Lech Kaczynski was elected president in a free and fair election on October 23. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- poor prison conditions
- occasional lengthy pretrial detention
- a poorly functioning judicial system
- restrictions on freedom of speech and of the press
- discrimination against women in the labor market
- the sexual exploitations of children
- trafficking in women and children
- societal discrimination and violence against ethnic minorities
- violations of workers' rights and antiunion discrimination

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

In May 2004 police officers in Lodz accidentally used live ammunition rather than gum bullets to pacify crowds at a student festival, and two people were killed. As a result of this incident and the ensuing investigation, 12 police officers faced disciplinary action, including the Lodz regional police commander, city commander, and deputy city commander, who lost their jobs. The investigation by local prosecutors of two police officers believed to have knowingly distributed the live ammunition was ongoing at year's end. In September 2004 police paid the family of 1 victim approximately \$80 thousand (240 thousand PLN), while negotiations with the second victim's family were continuing at year's end.

In February the appeals court in Warsaw overturned the two-year suspended sentence handed down by the district court in May 2004 to former interior minister Czeslaw Kiszczak for his role in the 1981 killings at the Wujek mine. In August the district court determined that the case was a "Communist-era crime" that should either be heard by the institute for national remembrance (IPN) or be dismissed on the basis of an expired statute of limitations. The prosecutor appealed that decision, and the appeal court ruled in September that

the district court must hear the case. In October the Katowice district court again began hearing testimony, including that of General Wojciech Jaruzelski, who testified that Kiszczak had not authorized the use of firearms at the Wujek mine. The trial had not concluded at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them.

Observers accused police of using excessive force against a June 26 gathering of approximately eight thousand miners who were peacefully protesting proposed changes in the retirement law being considered by the parliament. Observers reported that police used tear gas, batons, and water cannons against the protesters. Seven police officers and approximately 40 miners were injured in the confrontation.

Prison and Detention Center Conditions

Prison conditions remained generally poor. Overcrowding and insufficiency of medical treatment were the chief problems.

Overcrowding persisted in both prisons and detention centers. The Helsinki Foundation reported that approximately 83 thousand persons were held in prisons, despite an estimated capacity of 50 thousand. Overcrowding and other issues led to several riots in 2004. In May 2004 prison inmates in Wroclaw and Poznan staged a three-day hunger strike to protest crowded cells and demand better food and medical care. The protest ended peacefully, but with no resolution of the grievances.

In December the ombudsman sent a motion to the constitutional tribunal to review the regulation of the ministry of justice which allows for overcrowding in prisons and detention facilities. No ruling had been issued at year's end.

During the year prisoners submitted 15,065 complaints about the living conditions in penitentiary institutions. During the year there were 125 complaints of beatings or improper use of force by prison officials. Authorities took disciplinary action against 186 prison guards and supervisors when complaints were found to be justified.

Women, who constituted 2 percent of the prison population, were held in 28 detention facilities, 8 of which were only for women. In the remaining 20 facilities, inmates were segregated by gender.

Juveniles were generally separated from adults; however, in accordance with the law, at times juveniles and adults were housed together. Convicted minors (defined as 15- to 17-year-olds) were segregated from the adult prison population. Juveniles (17- to 21-year-olds) accused of serious crimes were usually sent to pretrial detention. According to the prison service central administration, there were no reported cases of an adult abusing a juvenile in mixed adult-juvenile detention.

Facilities that housed convicted prisoners often held pretrial detainees in separate areas. Conditions for pretrial detainees were occasionally worse than those for convicted prisoners.

The government permitted prison visits by independent human rights organizations, and there were visits by the UNHCR and the Helsinki Foundation during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The police force is a national law enforcement body with regional and municipal units overseen by the minister of interior and administration. Low-level corruption within the police force was considered widespread, and there was also a public perception that police were unduly influenced by political pressures. Instances of corruption and serious criminal misconduct were investigated by the national police's office of internal affairs. The personnel division handled minor disciplinary offenses.

In January the former deputy minister of internal affairs and two parliamentary officials were sentenced to prison following their December 2004 convictions for obstruction of justice. Zbigniew Sobotka, the former deputy minister, was sentenced to 3.5 years in jail; Henryk Dlugosz and Andrzej Jagiello, both former parliamentary officials for the Democratic Left Alliance (SLD), were sentenced to 1.5- and 2-year terms, respectively. In his last days in office, the president reduced Sobotka's sentence to one year. Dlugosz and Jagiello's appeals were heard before an appeals court in Krakow in November, but a verdict was not issued by year's end.

In 2003 national police commander Antoni Kowalczyk resigned after it was revealed that he had changed his testimony during the investigation into the "Starachowice affair," a corruption scandal in which senior officials alerted suspects to an impending raid by the national police's central bureau of investigation. In October 2004 the prosecutor's office in Kielce charged Kowalczyk with perjury and failing to report the improper release of classified information. Kowalczyk's trial concluded in mid-December, and no verdict had been issued by year's end.

The government continued to implement programs to combat corruption in the police force. Workshops and seminars provided anticorruption training to employees and officers. In November the new commander for national police, Marek Bienkowski, announced a new anticorruption program that included higher salaries, better recruitment techniques, disclosure of individual financial holdings, and more severe penalties for offenses. At year's end the plan was being considered by the council of ministers.

Arrest and Detention

The law provides for suspects to be apprehended openly with warrants based on sufficient evidence and issued by the courts. The law allows a 48-hour detention period before authorities are required to bring a defendant before a court and an additional 24 hours for the court to decide whether to issue a pretrial detention order. Detainees must be promptly informed of the charges against them, and the government provides free counsel to the indigent. Defendants and detainees may consult with attorneys during their detention and before and during court proceedings. There was a functioning bail system, and most detainees were released on bail pending trial. Detainees have the right to prompt access to a lawyer, but family members must apply for permission to visit from the prosecutor.

Detainees may be held in pretrial detention for up to three months and may challenge the legality of an arrest by appeal to the district court. The court may extend the pretrial detention period every 6 to 12 months, but total detention time before the court issues a first sentence may not exceed 2 years. However, in certain circumstances, such as very complex cases, the court may petition the Supreme Court for an extension past the two-year limit. Trials were occasionally delayed by inefficiency.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary remained inefficient and lacked resources and public confidence.

There is a four-tiered court structure. The courts consist of regional, provincial, and appellate divisions, as well as a supreme court. These tiers are subdivided further into five domains of jurisdiction: military, civil, criminal, labor, and family. Regional courts try original cases, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while having

original jurisdiction for the most serious offenses. Appellate courts handle appeals tried at the provincial level; the Supreme Court handles appeals of lower court decisions and ensures that the law is applied consistently throughout the country.

The court system remained cumbersome, poorly administered, inadequately staffed, and underfunded. The courts had numerous inefficiencies--most notably, more criminal judges than prosecutors in many districts--that contributed to a lack of public confidence. Court decisions frequently were not implemented. A continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

Trial Procedures

Cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. Defendants are allowed to consult an attorney, who is provided at public expense if necessary. Defendants must be present during trial, may confront and question witnesses in their defense, and may access government-held evidence relevant to their case. Defendants may present evidence and witnesses on their own behalf. Prosecutors can grant witnesses anonymity if they express fear of retribution from the defendant. This provision, designed to help combat organized crime, impaired defendants' right to confront their accusers. Trials are usually public; however, the courts reserve the right to close a trial to the public in some circumstances, including divorce cases, cases in which state secrets may be disclosed, or cases whose content might offend public morality (see section 1.f.). The courts rarely invoked this right.

Once a verdict is rendered, the defendant has seven days to request a written statement of the basis for the judgment. The court then has seven days to produce a written decision. A defendant has the right to appeal within 14 days of the written decision on the basis of new evidence or procedural irregularities. A two-level appeal process is available in most civil and criminal matters.

The law provides for juries, usually composed of two or three individuals appointed by local officials, who assist judges in making decisions.

Several individuals lodged complaints or filed cases against the government in the European Court of Human Rights (ECHR) because of trial delays and a perceived lack of due process.

Military courts, which are supervised by the minister of justice and the prosecutor general, have jurisdiction over crimes committed by members of the military while on duty. Defendants enjoy the same rights as civilians. Civilian employees of the ministry of defense are not tried by the military courts.

Political Prisoners

There were no reports of political prisoners.

Property Restitution

While there is a law permitting restitution for communal property seized during the Communist and Nazi eras (see section 2.c.), the government failed to vote on a restitution bill for private claims that was introduced into parliament in July. The treasury estimated that there were 56 thousand claims outstanding for property valued at approximately \$16.7 billion (50 billion PLN). Despite the lack of a national law, some property nationalized illegally has been restored and compensation provided, amounting to approximately \$183 million (550 million PLN) for 500 property claims over the past 10 years.

In July the parliament passed a law concerning properties lost as a result of border changes after World War II. The legislation refers to formerly Polish land east of the Bug River that now falls inside the borders of Lithuania, Belarus, and Ukraine. The government estimated that the law could affect approximately 80 thousand claimants. However, no compensations were made during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions; however, the government did not always respect these prohibitions in practice.

There was no independent judicial review of surveillance activities, nor was there any control over the use of the information thus derived. A number of agencies had access to wiretap information, and the law allows electronic surveillance for crime prevention and investigations.

Under the "lustration" law, designed to expose officials who collaborated with the Communist-era secret police, persons caught lying about their past may be prohibited from holding public office for 10 years.

In December 2004 former parliament speaker Josef Oleksy announced his decision to resign after a Warsaw court found him guilty of failing to reveal the extent of his communist-era activities. In October the court banned Oleksy from holding public office for 10 years as punishment for his concealment of secret collaboration with the wartime military intelligence services.

Many lustration cases were closed to the public because they involved classified documents (see section 1.e.). Critics continued to voice concern that the vetting procedure was unfair because secret police records were subject to loss or tampering.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, there were a few restrictions in law and practice. The law states that an individual who "publicly insults or humiliates a constitutional institution" of the country is subject to a fine or imprisonment of up to two years, and an individual who insults a public functionary is subject to a fine or imprisonment of up to one year. Offending the object or spirit of a place of worship through public speech is punishable by a fine or a two-year prison term.

During the year artist Dorota Nieznalska appealed her conviction for offending religious beliefs by placing a photograph of female genitals on a Christian cross. She was sentenced by the Gdansk regional court in July 2003 to six months of public service. The appellate court's decision was pending at year's end.

The independent media were active and expressed a wide variety of views without restriction. The national radio and television broadcasting council (KRRiTV) has broad power to monitor and regulate programming on radio and television, allocate broadcasting frequencies and licenses, and apportion subscription revenues to public media. Council members are legally required to suspend their membership in political parties or public associations.

Private television, including satellite and cable services, was available across most of the country. Private television broadcasters operated on frequencies selected by the ministry of communications and auctioned by the KRRiTV. The four channels of the public Polish Television (TVP) were the most widely viewed, with a combined 40.5 percent market share, but TVP had strong competition from the private TVN and Polsat networks. Cable television and various satellite services carried the main national channels, as well as local, regional, and foreign channels.

The law prohibits the media from promoting activities that are illegal or against government policy, morality, or the common good and requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values." The government enforced this provision in practice, levying many fines during the year to programs deemed offensive. There was significant political debate about how to interpret and apply this law.

In 2003 the Supreme Court ruled in favor of the *Zycie* newspaper's appeal of a Warsaw district court judgment ordering it to apologize to then president Kwasniewski for publishing untrue information. The paper

had accused the then president of meeting with a Russian spy at a sea resort. Kwasniewski denied such a meeting and said that he was abroad on the day he was reportedly to meet with the Russian agent and filed a suit. The case was returned for further review to the lower court, which in September 2004 again ordered *Zycie* to apologize. The newspaper initiated a new appeal, which was still pending at year's end.

In January a Warsaw regional court found journalist Jerzy Urban guilty of insult for his 2002 publication in news weekly *Nie* of an article that criticized the pope for senility and made other derogatory remarks. The court fined Urban approximately \$6,250 (20,000 PLN). In response to this and other cases of alleged slander, the representative on freedom of the media of the Organization for Security and Cooperation in Europe (OSCE) expressed his concern that freedom of speech was not sufficiently protected under the country's law. Urban's appeal of the ruling was pending at year's end.

On January 10, the Bielsko-Biala district court fined a journalist for the biweekly newspaper *Nad Skawa* \$650 (2,000 PLN) for publicly insulting religious belief and publicly libeling the object of religious worship in 1998. The journalist had called the pope's visit to Skawa an "artistic event" and described Jesus Christ in graphically explicit terms.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly; however, the government did not always respect this right in practice. Permits were not necessary for public meetings but were required for public demonstrations. Authorities routinely issued permits for public gatherings; however, the mayor of Warsaw refused to issue a permit for a gay rights parade in June, and the mayor of Poznan denied a permit for a separate gay rights parade in November (see section 5).

Freedom of Association

The law provides for freedom of association; however, there were restrictions on this right in practice. Private associations were required to register with the local district court in order to obtain government approval to organize. The organization must sign a declaration that it will abide by the law. In practice the procedure was complicated and subject to the discretion of a judge. There were no reports that private associations were routinely denied registration, or that any registration was denied for political reasons.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

There are 15 religious groups that were officially recognized by the government before World War II, and whose relationships with the government are guided by specific legislation outlining their internal structure, activities, and procedures for property restitution. There were 150 other registered religious communities. Approximately 96 percent of the population was Roman Catholic. Although the constitution provides for the separation of church and state, crucifixes hang in both the upper and lower houses of parliament, as well as in many government offices. State-run radio broadcasts Catholic mass on Sundays, and the Catholic Church was authorized to relicense radio and television stations to operate on frequencies assigned to the church--the only body outside the National Radio and Television Council allowed to do so.

Religious education classes continued to be taught in public schools. The government employed Catholic Church representatives to teach religious classes in schools. However, parents could request religious classes in any registered religion, including Protestant, Orthodox, Jewish, and Muslim religions. Children may choose between religious instruction and ethics, and may request exemption from any religious instruction. Non-Catholic religious instruction existed but was uncommon. In addition Catholic Church

representatives sat on a commission that determined which books qualified for school use.

The government continued to work with both local and international religious groups to address property claims and other sensitive issues stemming from Nazi- and Communist-era confiscations and persecutions. Of approximately 10,000 communal property claims filed for restitution of religious property, more than 4,100 have been resolved and more than 1,200 properties had been returned by the end of the year.

At the end of the year, approximately 2,959 of the 3,063 claims filed by the Catholic Church had been concluded, with 1,420 claims settled by agreement between the church and the party in possession of the property (usually the national or a local government); 922 properties returned through decision of the commission on property restitution, which rules on disputed claims; and 617 claims rejected by the commission.

Claims by the local Jewish community, whose deadline for filing claims under the 1997 law expired in 2002, totaled 5,544. The commission considered 857 cases, of which 277 were settled amicably and 317 properties were restored.

The Lutheran Church, for which the filing deadline was 1996, filed claims for 1,200 properties. Of these 834 cases were heard, 228 of which were resolved amicably and 136 properties were restored. A total of 313 claims were filed with the commission by the Orthodox Church, of which 137 were closed in full or in part.

Societal Abuses and Discrimination

Relations between various religious communities were generally amicable. There was a small Jewish population of approximately 20 thousand. There were reports of sporadic incidents of harassment and violence against Jews and occasional desecration of Jewish cemeteries, committed by skinheads and other marginal elements of society.

Occasional incidents of cemetery desecration were reported during the year.

The government provided grants to a number of organizations involved in antibias education, including the public-private Jewish Historical Institute (ZIH) in Warsaw. ZIH is the largest depository of Jewish-related archival documents, books, journals, and museum objects in the country. The government also provided grants to ZIH, which produces educational materials on Jewish culture, the Holocaust, and religious tolerance.

On May 5, the prime minister, the Israeli prime minister, and the Hungarian prime minister were featured speakers at the fourteenth March of the Living. An estimated 21 thousand participants walked from the former Auschwitz concentration camp to the former Birkenau death camp to honor victims of the Holocaust. Schoolchildren, Boy Scouts, the Polish-Israeli Friendship Society, Polish survivors of Auschwitz, and the Polish Union of Jewish Students participated in the march.

In 1998 the parliament created the commission for the prosecution of crimes against the Polish nation within the IPN. The IPN was responsible for commemorating Polish losses sustained in World War II and the postwar period, celebrating citizens' efforts to forge an independent state, and pressing for government compensation of past human rights violations. In April the government-funded IPN confirmed that Konrad Hejmo, a Polish priest posted to the Vatican, collaborated with the secret police in the 1970s and 1980s to provide information on Pope John Paul II. Hejmo was recalled from his position in the Vatican.

The ministry of culture, the city of Warsaw, and ZIH completed years of negotiations on January 25 when they signed an agreement to build a museum of the history of Polish Jews. Following an international competition, the design for the museum was awarded to Finnish architects in the fall.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and the government did not employ it.

Protection of Refugees

The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 1,856 persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

During the year the Halina Niec Human Rights Association reported that a refugee detention center in Lesznowola had inadequate standards of hygiene at in some facilities, insufficient lighting and ventilation, as well as a lack of privacy. The government responded by beginning construction on four more modern centers for refugees. The considerable increase in space and upgrades in efficiency were expected to address some of the current challenges.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

National parliamentary and presidential elections took place in September and October, respectively, and were regarded as free and fair. Multiple candidates from various political parties participated in the elections and had access to the media.

Following parliamentary elections on September 25, Kazimierz Marcinkiewicz became prime minister. Coalition talks with Civic Platform (PO) failed, and Law and Justice (PiS) formed a minority government, which received a vote of confidence from the parliament on November 10.

There were 94 women in the 460-seat lower house and 13 women in the 100-seat senate. There were 2 women in the 18-member cabinet.

There were two members of minorities in the lower house and no minorities in the senate. There were no minorities in the cabinet. The law exempts ethnic minority parties from the requirement that they win 5 percent of the vote nationwide in order to qualify for seats in individual districts.

Government Corruption and Transparency

There was a widespread public perception of corruption in government. Experts reported that citizens considered political parties, parliament, the health care system, and the judiciary to be the most corrupt public institutions. The nongovernmental organization (NGO) Transparency International reported an erosion in public confidence in the country's institutions. According to a poll conducted in August by the Center for Public Opinion research (TNS OBOP), 94 percent of citizens believe corruption occurs very often (67

percent) or often (27 percent).

On September 19, the parliamentary Orlen investigative committee approved a final report on the "Orlengate" scandal, which originally surfaced in October 2004 with reports that the country's richest businessman had met with a former Russian spy and suggested he had official approval to negotiate the sale of state-owned Rafineria Gdanska, the country's second-largest oil refinery. The alleged conversation would have been illegal, since the law bars any state officials, with the exception of treasury ministry officials, from negotiating business transactions, including asset sales, on the government's behalf. The committee's final report concluded that President Kwasniewski, former prime minister Leszek Miller, former minister of treasury Wieslaw Kaczmarek, former minister of justice Barbara Piwnik, Speaker of the Sejm Włodzimierz Cimoszewicz, Minister of Justice Andrzej Kalwas, and former minister of treasury Emil Wasacz should all be impeached before the state tribunal for their involvement in the scandal. On September 26, the committee's report was sent to the speaker of the house, but the case remained pending at year's end since the report had not yet been reviewed by the parliament.

In a separate matter a former aide leaked allegations of tax fraud against SLD presidential candidate Włodzimierz Cimoszewicz to the press, leading him to withdraw from the presidential campaign on September 15.

In September 2004 businessman Marek Dochnal was arrested for allegedly bribing public officials for information about the privatization of a state-owned steel mill and the sale of shares of the country's largest oil company. His detention was extended several times and he was still in custody at year's end, although no official charges had been filed or trial date set.

In April a government inspection of the central bureau of investigation (CBS) offices in Lodz revealed that over 265 pounds (120 kilograms) of narcotics had disappeared from CBS custody over the past few years. A similar inspection in May of the CBS offices in Poznan found that CBS officers were trading top-secret operational information. Both offices were closed, and the director of CBS, Janusz Golebiewski, resigned. Interior Minister Ryszard Kalisz offered his resignation to Prime Minister Marek Belka in response to these scandals. Belka did not accept Kalisz's resignation, but instead relieved Kalisz's deputy, Andrzej Brachmanski, of his position.

The law provides for public access to government information; in practice the government provided such access for citizens and noncitizens, including foreign media. Government refusals of requests for information must be based on exceptions provided in the law related to government secrets, personal privacy restrictions, and propriety business data. Refusals may be appealed.

On November 25, the defense minister announced that the "Warsaw Pact files," which contain information about the 1968 Soviet invasion of Czechoslovakia and the 1981 imposition of martial law in the country, would be declassified and made available to historians at the IPN. Government-appointed teams began to evaluate which documents were appropriate for declassification.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language or social status, and the government effectively enforced these provisions in practice; however, violence and societal discrimination against women and ethnic minorities persisted.

Women

Domestic violence against women continued to be a serious problem. Police statistics indicated that approximately 88,388 women were victims of domestic violence during 2004, with 17,158 convictions resulting from prosecution. During the year police reported 22,652 investigations, with 21,843 indictment requests forwarded to prosecutors. Women's organizations asserted that the number of women suffering from domestic abuse was probably much higher than reported. Violence against women remained hidden, particularly in small towns and villages.

The NGO Women's Rights Center reported that police were occasionally reluctant to intervene in cases of domestic violence, particularly when the perpetrator was a member of the police force and when victims were unwilling to cooperate. The police, in cooperation with the state agency for solving alcoholic problems, used the "blue card," a record-keeping system designed to document incidents of spousal abuse. However, the program had limited effect due to inadequate funding. There were 150,266 cases of family abuse reported in 2004, compared with 137,299 in 2003. The increase in reported cases was attributed to heightened police awareness, particularly in urban areas, as a result of media campaigns and NGO efforts. According to NGOs, courts often treated domestic violence as a minor crime, pronounced lenient verdicts, or dismissed cases. Most convictions for domestic abuse resulted in suspended sentences, although the law provides for up to five years in prison. The law does not provide for restraining orders to protect abused women from further abuse.

NGOs operated a number of centers to assist victims, provide preventive treatment and counseling to perpetrators, and train personnel working with domestic violence victims. Victims and their families received legal assistance from the ministry of internal affairs and psychological assistance from the ministry of labor and social policy, which also operated 9 shelters for pregnant women and mothers with small children and 158 crisis centers. Approximately 341 persons used the shelters during the year, and 31,943 persons used the crisis centers during the first 6 months of the year. However, neither the shelters nor the crisis centers were devoted exclusively to battered women. Women's advocacy groups complained there were too few state-supported shelters for battered women.

In July parliament passed a domestic violence law that provides for the creation of a national program on counteracting domestic violence, as well as provisions to support victims of domestic violence legally, psychologically, and physically.

Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. During the year 1,987 cases of rape were reported, a slight decrease from the 2,176 reported in 2004. However, women often were unwilling to report the crime because of the associated social stigma, and NGOs estimated that the actual number of rapes was 10 times higher than reported. Of the 1,773 preparatory proceedings that police undertook for rape allegations, 1,360 were forwarded to prosecutors for indictment.

In divorce cases, courts frequently granted a divorce without providing for a property settlement, forcing women to return to abusive husbands. This problem was exacerbated by a lack of alternative housing.

Prostitution is legal, but pimping is illegal. Experts estimate that 30 thousand to 35 thousand women worked as prostitutes, many of them employed by the country's 1 thousand "escort services." Trafficking in women for the purposes of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and regards it as "discrimination because of gender." The NGO Center for Women's Rights believed that sexual harassment was a serious and underreported problem. Many victims either did not report the crime (out of shame or fear of losing their job) or, according to police authorities, withdrew their claims as police investigations progressed. Social awareness of the problem continued to increase, however, as more reports of sexual harassment cases appeared in the media. Cases were typically prosecuted under a law stating that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to up to three years in prison. During the year police reported 54 investigations into sexual harassment cases under this law; in 2004 there were 225 such investigations, 13 of which resulted in convictions. Police attributed the difference in results to the

incarceration of repeated violators.

The constitution provides for equal rights regardless of gender in family law, property law, and in the judicial system; however, apart from the constitution and the labor code, there were no laws to implement this provision. Women mainly held lower-level positions and frequently were paid less for equivalent work, were fired more readily, and were less likely to be promoted than men.

Women are prohibited from working underground (that is, in mining) or in jobs that require lifting of weights above a specified maximum. The prohibitions are binding on employers and do not permit exceptions even if requested by a female employee or with her consent. Additional restrictions apply to pregnant women.

The ombudsman for human rights monitored women's rights within the wider context of human rights; however, the broad scope of the office's mandate diluted its ability to function as an effective advocate of women's issues.

In November the government abolished the office of the government plenipotentiary for equal status for women and men, which had been charged with incorporating the principle of gender equality into governmental policy, including monitoring implementation of government programs aimed at achieving equal status. Those responsibilities were given to the department for women, family, and counteracting discrimination, which was established at the ministry of labor and social policy in December.

Until the abolition of her office, the plenipotentiary continued to implement her duties. The plenipotentiary protested discrimination of women a number of times during the year. She issued a statement severely criticizing parliament's rejection of a bill addressing discrimination against women. In May she sent protested to the mayor of Krakow over discrimination against women in the Cracovia Marathon, which presented female victors with a financial reward half as large as that of the men. The office of the plenipotentiary also provided financial grants to NGOs working to combat violence against women and to promote women in the labor market.

Children

The government was committed to children's rights and welfare.

During the year the ombudsman for children's rights submitted more than 30 statements to various ministries and other public institutions regarding the rights and welfare of children, including appeals to undertake comprehensive measures to stop domestic violence against children, to enhance children's safety, and to improve their access to preschool education.

Education is universal and mandatory until age 18, and public schools are free. According to the UN Children's Fund (UNICEF), 98 percent of school-age children attended school. Most students continued their studies to the postsecondary level.

The government sponsored some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted in the schools; however, budget shortfalls prevented complete implementation of these programs.

Child abuse was rare. The law prohibits violence against children, and anyone who physically or psychologically abuses a juvenile may receive a prison sentence of three months to five years. However, abuse was rarely reported, and convictions also were rare. Police reported 1,697 cases of the sexual exploitation of children, 158 cases of child pornography, and 70 cases of child abandonment. Schools did not have procedures to protect children from physical or psychological abuse by teachers, and the teachers' work code provides legal immunity from prosecution for corporal punishment in the classroom.

Trafficking in children, primarily for the purpose of sexual exploitation, was a problem (see section 5, Trafficking).

Trafficking in Persons

The law prohibits trafficking in persons; however, the country was a source, transit point, and destination for trafficked persons, primarily women and girls but also, to a lesser extent, boys. Internal trafficking for the purpose of sexual exploitation also occurred.

Several legal provisions specifically address trafficking; however, many convictions resulted in suspended prison sentences. The law prohibits trafficking in persons for the purposes of both sexual and nonsexual exploitation and imposes sentences of 3 to 15 years in prison. Pimping, recruiting, or luring persons into prostitution are also prohibited, with penalties up to 10 years in prison. Individuals convicted of trafficking in children and luring women into prostitution abroad receive the most severe sentences. Traffickers could also be prosecuted under laws criminalizing statutory rape, forced prostitution, and other acts.

Eleven agencies were involved in antitrafficking efforts. The ministry of interior and ministry of justice have primary responsibility for antitrafficking efforts, with the ministry of foreign affairs engaged on bilateral and multilateral levels. The government dissolved the plenipotentiary for equal rights for men and women, which had also been involved in antitrafficking programs.

The national police participated in several bilateral task forces that shared information, tracked the movement of traffickers and victims across borders, and coordinated repatriations and casework. In 6 of the 16 provinces, there were individuals or special teams at the county level monitoring trafficking. The national police coordinated these efforts. There was close cooperation with Ukraine and Belarus.

Individuals were trafficked to and through the country, primarily from Ukraine, Bulgaria, Romania, Belarus, and Moldova. A growing number were members of the Turkish minority in southern Bulgaria and from the Romani population in Romania. There was a decrease in victims trafficked from Russia. Individuals, including citizens, were trafficked to Western Europe, including Germany, Italy, Belgium, France, and the Netherlands, as well as to Japan and Israel. Some internal trafficking occurred. The extent of the problem was unclear because statistics on prostitution did not distinguish trafficking victims from those willfully engaged in prostitution and other aspects of the sex trade. Of the estimated 7 thousand prostitutes in the country, approximately 30 percent were estimated to be of foreign origin. The international NGO La Strada previously estimated that 75 percent of the foreign women working as prostitutes in the country were trafficking victims. In addition La Strada reported that as many as 10 thousand Polish women were trafficked out of the country annually. NGOs have noted a recent trend toward a higher percentage of victims being trafficked for labor in agriculture and other economic sectors.

Traffickers targeted young, unemployed, and poorly paid women, particularly those with weak family ties and support networks. Traffickers attracted victims through methods including fake employment offers, arranged marriages, fraud, and coercion. Some victims believed that they were accepting employment abroad as waitresses, maids, or nannies. While traveling to their purported destinations, traffickers confiscated their passports and identity papers and exerted control over them through fear and intimidation. Traffickers threatened victims with violence, and those who resisted or tried to flee were raped, beaten, or intentionally injured.

As many as 90 percent of those trafficked in the country had false travel documents, and the trafficking operation usually involved a network of criminals. One criminal would recruit the victim; a second would provide false travel documents and traffic her across the border; and a third would supervise her work with clients, functioning as a pimp. Arrest statistics indicated that approximately 25 percent of traffickers were noncitizens. Unlike in previous years, there were no reports of large-scale auctions of women in Warsaw and other cities. Prices for trafficked women and girls reportedly started at approximately \$2 thousand (6 thousand PLN).

There were unconfirmed reports of local police taking bribes to ignore trafficking activity.

Trafficking victims often were afraid to turn to officials for help because border guards and police could potentially deport victims, if they were not identified as such, on immigration law violations. In many cases unidentified victims were deported as soon as possible, preventing the government from providing

assistance, despite legal provisions allowing foreign victims with illegal status to remain in the country during the investigation and trial of their traffickers. NGOs attributed the high number of these deportations to the absence of national guidelines for police officers and border guards on how to approach and identify suspected victims. Victims were often prosecuted for carrying false travel documents, working illegally, and violating the terms of their visas.

Deported victims were sometimes met at the border by their traffickers, who provided them with new travel documents and returned them to the country. For example, in 2004 police detained a Bulgarian woman on several occasions, each time with a new identity and passport.

The revised immigration law, which came into force in October, introduces a "reflection period" of up to two months, during which a foreign trafficking victim may remain in the country legally while deciding between cooperating with law enforcement agencies and being deported. If a victim decides to remain and testify against the alleged trafficker, he or she receives a temporary residence permit.

While the government generally lacked resources to support victims financially, it cooperated extensively with NGOs, which provided a wide range of support services. The government leased an apartment to La Strada to use as a shelter for trafficking victims and gave another organization a grant to build a similar shelter. In January 2004 La Strada opened a 12-bed shelter with funding from foreign governments to provide victims with medical, psychological, and legal assistance. This shelter was at full capacity throughout the year. The number of shelters remained inadequate, and NGOs frequently resorted to temporary arrangements to shelter victims.

In April the council of ministers approved the national antitrafficking plan, which received approximately \$82 thousand (250 thousand PLN) for victim protection. As part of the plan, a series of trainings for police, border guards, prosecutors, judges, and social workers were held in 10 of the 16 provinces.

All incoming police officers reportedly received antitrafficking training. In September police began implementing the new antitrafficking training program in all police schools, offering general training to all incoming police officers.

La Strada received approximately \$33,000 (99,842 PLN) from the government to support its antitrafficking programs. The NGO conducted training courses at six police academies and border guard academies during the year. The courses were designed to improve knowledge of the issue of trafficking in persons among students of both academies. La Strada also offered counseling for victims and their families; developed training and prevention materials; and conducted awareness campaigns on the dangers of trafficking.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, or in the provision of other state services, including health care. The government effectively enforced these provisions; however, there were reports of some societal discrimination against persons with disabilities. There were approximately 5.5 million persons with disabilities in the country at year's end.

The law states that buildings should be accessible for persons with disabilities; however, public buildings and transportation generally were not accessible to these persons. There is no legal obligation to adapt existing facilities to the needs of persons with disabilities and efforts to make improvements in this area have been hampered by lack of funding.

The first deputy minister in the ministry of social policy is responsible for disability-related issues. He supervises the state fund for rehabilitation of the disabled, and is advised by the national consultation council for the disabled. In July the fund approved three new programs to improve the access of persons with disabilities to education and public facilities, and to provide them with information centers. In September the fund approved the Partner 2006 program to support NGOs that implement projects for persons with disabilities.

During the year the government made only nominal gestures of support for strengthening the rights of persons with disabilities. On January 21, the lower house passed an amendment that more clearly defines the role of government financing in vocational and social rehabilitation. An additional bill reforming support and vocational rehabilitation of persons with disabilities was rejected during the first meeting of the lower house committee on May 4.

National/Racial/Ethnic Minorities

There were occasional incidents of racially motivated violence directed at Roma, typically by skinheads. Individuals of African, Asian, or Arab descent also reported isolated incidents of verbal, physical, and other types of abuse. The small Ukrainian and Belarusian minorities occasionally experienced petty harassment and discrimination.

Societal discrimination against Roma was common, and some local officials discriminated against Roma in the provision of social services. According to its leaders, Roma faced disproportionately high unemployment and were hit harder by economic changes and restructuring than were ethnic citizens. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education.

In 2004 the government began implementing a "Program for the Roma Community in Poland" to improve Romani living and social conditions, access to health care, and employment opportunities. Coordinated by the ministries of interior and administration, the program was designed to combat ethnically related crime and protect and maintain the Romani culture and identity. The program included hiring Romani teaching assistants, providing vocational training to Roma, and training police on racially motivated crime.

In February 2004 the ECHR upheld the government's 2001 rejection of the application for official minority status by the 170-thousand-member Silesian-speaking community. During the year the Silesian community appealed the government's decision and was awaiting the decision of the court of first instance at year's end.

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. The German minority in Opole province made up one-third of the area's one million inhabitants, and some community members continued to complain of inadequate use of German in the province's schools.

On January 6, parliament passed a law establishing a joint committee to advise the prime minister on issues related to minorities, including minority rights, relevant legislative initiatives, and budget resource allocation. The new law also imposes an obligation on public authorities to allocate funds for the protection, preservation, and development of the cultural identity of minorities.

Other Societal Abuses and Discrimination

Right-wing groups attempted on several occasions to disrupt gay pride marches. In May the mayor of Warsaw, Lech Kaczynski, denied approval of a gay rights parade organized by the Equality Foundation, a consortium of gay-rights groups, stating that he would not allow the promotion of gay culture. Despite the denial, on June 11, gay rights activists held a peaceful equality parade during which they complained about the discrimination they experienced in their everyday lives. Marchers were assaulted with objects such as rocks thrown by antigay demonstrators led by the ultraconservative All Poland's Youth League. In September a Warsaw court ruled that the mayor's refusal to issue a permit for the equality parade was illegal. In December the organizers of the parade filed a claim with the ECHR arguing that the country had violated three articles of the European Convention on Human Rights. The case was pending at year's end.

On November 15, the mayor of Poznan, Ryszard Grobelny, refused to issue a permit for an equality march in that city. The mayor cited security concerns, but the NGO attributed the refusal to social intolerance of the local lesbian, gay, bisexual, and transgender (LGBT) community. On November 20, despite the denial of the permit, several hundred people demonstrated in support of gay rights. The activists were harassed, reportedly by members of the All Poland's Youth League, who threw eggs and rocks and made verbal

threats that were both homophobic and anti-Semitic in nature. Sixty-eight of the gay rights activists were arrested by police and interrogated about their participation before being released. Approximately one hundred of the violent counterdemonstrators were asked by police for identification in case police decided to investigate further.

On November 25, AI issued a public statement expressing concern over the local "climate of intolerance" against the LGBT community. The statement also criticized the abolition of the office of the plenipotentiary for equal rights for men and women.

There was discrimination against HIV-positive persons. The national AIDS center reported several minor cases of discrimination against HIV-positive persons in the units supervised and funded by the center. The center intervened when complaints were found to be justified.

Section 6 Worker Rights

a. The Right of Association

The law provides that all workers, including civilian employees of the armed forces, police, and frontier guard, have the right to establish and join trade unions of their choosing, and workers exercised this right in practice. According to press reports, 17 percent of the workforce was unionized. As a rule newly established small and medium-sized firms were nonunion, while union activity in most cases carried over into privatized (former state-owned) enterprises.

The law sets minimum membership requirements for establishing a trade union: 10 persons are required to form a local union and 30 for a national union. Unions, including interbranch unions for workers in the same profession and interbranch federations of unions within a sector, must be registered with the courts. A court decision refusing registration may be taken to an appeals court. The law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union.

The law prohibits antiunion discrimination; however, labor leaders reported that employers discriminated against workers who attempted to organize or join unions, particularly in the growing private sector. In state-owned enterprises, such as the health, water, and forestry sectors, there were cases in which workers had their normal employment contracts terminated and replaced by individual contracts that eliminated rights to join unions. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing the workplace. The law also did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to set up unions. In December Frito Lay fired the chairman of the Solidarity Trade Union for allegedly allowing an increase in the number of union members. Managers also asked workers in the presence of a notary public to declare whether they were union members.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for and protects enterprise-level collective bargaining over wages and working conditions. As of June there were 165 collective bargaining agreements between employers and trade unions. The tripartite commission (unions, employers, and the government) was the main forum that determined national wage and benefit increases in sensitive areas, such as the social services sector.

Key public sector employers (largely in heavy industry and the social services sector) remained unable to negotiate with labor without the extensive involvement of the ministries to which they are subordinate, thereby complicating and politicizing the government's labor relations. The law provides for parties to take disputes first to labor courts, then to the prosecutor general, and, as a last resort, to the Supreme Court. During the year, 916 such disputes reached the Supreme Court.

All workers have the right to strike except for those in "essential services"--security forces, employees of the supreme chamber of audit, and uniformed services (such as the police, border guards, and fire

brigades)--who only have the right to protest. These workers could also seek resolution of their grievances through mediation and the court system. A majority of strikes were technically illegal because one or both sides did not follow each step exactly. Labor courts acted slowly in deciding the legality of strikes, while sanctions against unions for calling illegal strikes and against employers for provoking them, were minimal. Unions alleged that laws prohibiting retribution against strikers were not enforced consistently and that the small fines imposed as punishment were ineffective deterrents. Organizers are liable for damages and may face civil charges and fines.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment

There were laws and policies to protect children from exploitation in the workplace, including a prohibition of forced or compulsory labor and policies regarding acceptable working conditions, and the government effectively enforced these provisions in practice. The law prohibits the employment of persons under the age of 15. Persons between the ages of 15 and 18 may be employed only if they have completed primary school and the proposed employment constitutes vocational training and is not harmful to their health.

The state labor inspectorate (PIP) reported that increasing numbers of minors worked and that many employers violated labor rules by underpaying them or paying them late. During the year PIP conducted 732 investigations involving almost 3,930 possible underage employees. Fines were levied in 428 cases, amounting to approximately \$32,000 (99,300 PLN). Inspectors found violations in restaurants, stud farms, and, in some instances, small private businesses and factories.

e. Acceptable Conditions of Work

The ministry of labor, the unions, and employers' organizations negotiate a revised national minimum wage every three months. At year's end the national minimum monthly wage of approximately \$252 (849 PLN) did not provide a decent standard of living for a worker and family. During the year parliament passed legislation raising the minimum wage to approximately \$300 (899 PLN) on January 1, 2006. The large size of the informal economy and the low number of government labor inspectors made enforcement of the minimum wage very difficult. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage.

The law provides for a standard workweek of 40 hours, with an upper limit of 48 hours per week, including overtime. The law requires premium pay for overtime hours, but there were reports that this regulation was often ignored. The law provided for workers to receive at least 11 hours of uninterrupted rest per day and 35 hours of uninterrupted rest per week.

The law defines strict and extensive minimum conditions for the protection of workers' health and safety; however, enforcement was a major problem because it was unclear which government body had responsibility for enforcing the law. The PIP was unable to monitor workplaces sufficiently. During the first 9 months of the year, 54,531 workers were injured in workplace accidents, 654 were seriously injured, and 326 were killed. Employers routinely exceeded standards for exposure to chemicals, dust, and noise. The PIP may shut down workplaces where it finds unsafe conditions.

The law permits workers to remove themselves from dangerous working conditions without losing their jobs; however, they were unable to do so in practice without jeopardizing their employment.